

**HIGHLAND BOARD OF ZONING APPEALS**  
**Minutes of the Meeting of**  
**January 22, 2020**

The Highland Board of Zoning Appeals met on January 22, 2020 in the meeting room of the Municipal Building, 3333 Ridge Road, Highland IN. Mrs. Murovic called the meeting to order at 6:30 p.m. The meeting opened with the Pledge of Allegiance led by Mr. Martini.

**ROLL CALL:** Present were Board Members Mr. Martini, Mr. Grzyski and Mrs. Murovic. Also present were Building Commissioner/Zoning Administrator, Mr. Ken Mika, BZA Attorney, Mr. John Reed and Town Council Liaison, Mr. Mark Herak.

**APPOINTMENTS:** Mr. Grzyski motioned to appoint Mrs. Murovic as President/Chairman, Mr. Martini as Vice-Chairman, Mr. Grzyski as Secretary, Susan Rae as Recording Secretary, Mr. John Reed and the law firm of Abrahamson, Reed & Bilse as BZA Attorney. Mr. Martini seconded and the motion was passed unanimously with a 3 – 0 roll call vote.

**MINUTES:** The minutes of the December 11, 2019 meeting were approved as posted.

**ANNOUNCEMENTS:** The next meeting of the Board of Zoning Appeals to be February 26, 2020 at 6:30 p.m.

**COMMUNICATIONS:** None

**Old Business:** None

**New Business:** **Eric & Jennifer Gluth, 10208 Idlewild Lane, Highland, IN 46322,** Seeking a Variance to construct garage placed 5'4" in front of the façade of their 2,200 sq.ft. Single-Family Residence at 9130 Kennedy Avenue, Highland, IN 46322. {18.15.080} (K) (1) Single-family residential garages shall be designed so as not to dominate the primary façade of the building. Garages shall be set back six feet from the primary façade of the building.

Attorney John Reed stated that he had reviewed the Proofs of Publication and they were in compliance with IC 5-3-1.

Mrs. Jennifer Gluth stepped forward and stated her name and address and that she and her husband, Eric Gluth were seeking a variance for their garage that they would like to build in front of the primary façade of the home they plan to construct in the narrow lot directly across from the Admin Building on Kennedy Ave. She proceeded to hand out packets to the Board Members that contained a Plat of Survey of the property and architectural drawings of the proposed residence. She stated that as far as they know it meets all the proposed standards and setbacks and that it will be a single-family home. She also stated that they

really tried to minimize the garage to go along with the requirement that it be set back 6' from the primary façade, but as they went along with the plans it became clear that requirement would be difficult, due to the fact that the lot is only 60' wide and there is not a whole lot you can do if you want a 2-car attached garage. She pointed out that they really tried to keep the entryway identifiable from the street in case there were any safety issues. She also stated they were considering an alternate plan for the entry that changed the layout from a two-door, one-window to a one-door, two window, but that it would still be warm and welcoming with the brick. She went on to discuss the plans from each view of the home, and the rest of the package enclosures. Mrs. Gluth pointed out that they tried to keep the garage as small and unobtrusive as possible, but for two cars and to be able to move freely around them 21' 8" was about as small as they wanted to go. She went on to say that if they kept the garage to 6' behind the primary façade it would kind of wipe out the space directly behind it in the great-room, kitchen area. They would lose almost 12' of living space with the 5' 4" of space in front of the garage, plus the 6' setback. She went on to say that the 16' space that was showing on their plans would become a 4' hallway. She then stated why they were requesting the variance. They wanted to argue that because of the practical difficulties of the lot at 9130 Kennedy they presented unusual and unnecessary hardship because of the characteristics that are unique to this lot. She stated that she could not find a lot of history confirming why this ordinance came to be, but she thought it reasonable to assume that the Town was trying to avoid new developments that would appear to be one garage after another, so the residence itself would be more prominent. She pointed out that there were 17 other residences within a .4 mile stretch of this property that have attached garages that sit out in front of the primary façade of the home and that they had listed the addresses in their paperwork. She went on to state they felt that the Board granting this variance would not significantly affect the look or feel of this part of Kennedy Avenue, also that their variance request did not include any special rites or privileges which are already not permitted in this neighborhood. She continued to point out that the lot has direct Kennedy Avenue frontage and the Design Standard states that it should be noted that none of the required provisions is aimed to impede the architectural design process. She pointed out that it made no architectural design sense whatsoever to have the living space of the home closer to the lights and traffic noise from Kennedy Avenue and the utilitarian garage set back from the noise and the lights. She stated that because the lot is only 60' wide and the minimum width to build the residence, there were limited alternatives for them to change the floor plans to accommodate the garage being set back from the primary façade. The fact that the lot was deep and they would still have a nice backyard appealed to them when choosing the lot. Lastly, she pointed out that the property had a unique situation with the property directly south. They had a side street orientation rather than a Kennedy Avenue orientation, so they have a side setback instead of a front setback. The result of this is that their garage is set well in front of the build line at the 9130 lot and they face directly into the property. The result of this would dictate that if they built as ordinance states, their entryway and windows and primary façade would stare straight into the neighbor's garage, which they felt would not work well for their neighbors or for them. She continued that allowing the garage to come out the 5' 4" they were requesting allowed for a little buffer zone and would be a more appealing line of sight for both properties. She concluded by saying that she and her husband loved Highland and wanted to stay and that she felt the home would be very appealing and would much improve the street-scape in this location and add tax revenue.

Mrs. Murovic opened the discussion to the public. Mr. Duane Goubeaux of 9118 Kennedy Avenue mentioned the lot was surrounded by two other single family homes and asked about

drainage on the lot and if there was a drainage survey done. Mr. Ken Mika stated that it was his understanding that providing what occurred in tonight's hearing for the Gluths, they may have to pursue sub-division of the lot and that drainage and those issues would be taken into consideration at that time. Mr. Goubeaux then asked about the easement on the property and if they would be building right up to the easement. Mr. Mika pointed out that they could build up to the easement, but could not overhang a public easement.

Mrs. Murovic closed the public discussion and brought it back to the Board.

Mr. Martini asked if there was a plat of the property. Mrs. Gluth replied that there wasn't because of the fact that two study sessions for the Plan Commission had been cancelled and her Civil Engineering Company had been unable to complete it.

Mr. Martini asked the Gluths what their hardship was. Mrs. Gluth replied that they can't build anything reasonable with the garage set back 6' from the primary façade, considering the lot is only 60' wide and has Kennedy Avenue frontage. She continued that it didn't make any design sense to have the main living space closer to the noise and lights of the main street, then have the garage set back further.

Mrs. Murovic stated that the Board appreciated the fact they would like to stay in Highland and also that they had been creative in trying to make the front entryway attractive. Mrs. Gluth pointed out that there could be a possible safety issue with the entryway if they were too narrow and it would not even be clear to fire departments where the front entryway was. Keeping it as wide as possible made it clear and safer in an emergency. Mrs. Murovic also pointed out that by placing the garage 6' in front of the primary façade would create a shorter driveway to the residence and that there was no parking permitted on Kennedy Avenue. Mr. Grzyski asked what the length of their proposed driveway would be. Mrs. Gluth replied it would be approximately 40' in length and the width would be approximately 17', if possible.

Mr. Martini motioned to deny the variance request. No one seconded the motion. Mr. Mika pointed out that the petitioners may want to request a continuance until there was a full Board present. Mrs. Murovic stated the motion for the denial died because there was no second motion, but the Gluths had the option to request a continuance until February due to the fact that there were two members absent and they had a right to be heard by a full board. Attorney Reed pointed out that action would have to be taken one way or another. They didn't have to request a continuance, but because the motion had died, the hearing would automatically be moved to the next month's agenda. He went on to say that there would have had to be a unanimous vote in this meeting and that was clearly not going to happen, due to the fact that the motion died.

Mrs. Gluth asked if it was possible for them to withdraw their variance request. Attorney Reed explained that if they ultimately wanted the variance in the future, they would have to repeat everything they had done until this point, including publication, sign, application and fees. If they continued they could just attend February's meeting and see what happened. Mr. Gluth stated they would like to continue the hearing until February.

Mr. Grzyski motioned that the variance request for Eric & Jennifer Gluth be continued until the February 26, 2020 BZA meeting. Mr. Martini seconded and it was unanimously approved with a roll call vote of 3 – 0.

**New Business: Rick Ralmondo, 8 Larsen Park Drive, Medford, NJ,** Seeking a Variance to place a sign at Planet Fitness, 3315 45<sup>th</sup> Street, Highland, IN that exceeds the standard contained in the Zoning Ordinance. { 18.83.030 } (B) (3) (b) For multi-use and mixed-use buildings, the maximum gross area for permanent business signs shall be either one square foot for each linear foot of frontage that the building occupies, or 150 square feet, whichever is less.

Attorney John Reed stated that he had reviewed the Proofs of Publication and they were in compliance with IC 5-3-1.

Attorney Jim Wieser, 429 W. Lincoln Highway, Schererville, IN, stepped forward and introduced himself and the petitioner, Rick Ralmondo, along with his wife, Christine Ralmondo. He stated he would be representing the Ralmondo's and they would be seeking a developmental variance relative to signage at the location of the new Planet Fitness, 3315 45<sup>th</sup> Street, Highland, IN. He proceeded to hand out packets to the Board members, Mr. John Reed and Mr. Ken Mika. He then stated that the Ralmondo's flew in from the east coast to attend the meeting and asked Mr. Ralmondo to introduce himself and say a few words.

Mr. Ralmondo stated that he was born in LaFayette, IN and that he and his wife had attended Purdue University. He also stated they both had been franchisees since 2006. He went on to say that they had the franchises for the Planet Fitness's in both Schererville and Crown Point and they were now acquiring the location in Highland, which they were excited about. He went on to say that the problem with the Highland location was that there was no pylon sign, which was why they were trying to obtain the developmental variance to increase the size of the exterior sign.

Mr. Wieser stated that the location was once the Dollar General and the Women's Fitness Club. It was to become a 17,000 square foot facility, combining the two spaces and that the Ralmondo's had invested more than \$1,000,000 to renovate the club and an additional \$1,000,000 to obtain the equipment and personal property necessary for the club to function. Since it was such a significant investment, they wanted to advertise their investment as best they could. Mr. Wieser then stated that a lot of malls had the opportunity to use the monument signage or the pylon signage, but neither were available in this case. He stated that the Ralmondo's wanted to maximize the opportunity to attract interested customers to their new facility. He went on to say that they had provided several options, first what they would be entitled to under the ordinance, then one with a 50% increase and lastly, an option with a 100% increase to what would normally be allowed. He then stated the last and largest option was what they would like and stated that he felt that when the size of facility was taken into account, it would make all the sense in the world. He stated that it would not be obtrusive and would fit in with the surroundings. He went on to say that if they were to meet the signage of the ordinance only, which was 128 lineal feet, it would be a struggle to see the sign when driving by, due to the size of the facility. He stated that the size they wanted, twice that, worked best for the success of the business and for the community. He carried on to ask what harm would be caused by this if it were to be allowed, also if they would meet the standards set forth in the statute. The first one he mentioned was if it would be injurious to the public health and welfare of the community. He felt it was not, due to the fact that the area is strictly commercial and the area across the street, in Griffith was already a business zone with many existing signs. Also, the properties immediately surrounding the building are commercial also with existing signs. He also pointed out that there was more than

enough parking and space surrounding the building. He stated they felt that their renovations and occupation of the building, which had been vacant for some time, would significantly add to the value of the adjoining properties. Lastly, Mr. Wieser spoke of the practical difficulties and hardships the businesses would suffer if the variance were not granted. He continued that a business needed to attract customers, it needed to be easily identifiable and to have attractive features. Without these the odds were that the business would fail. He added that without a monument or a pylon sign, it would be a very significant practical difficulty, which is why it is so important for the Ralmondo's to maximize the signage on the building. He finished by saying that he felt that the ordinance was grounded on proportionality and taking into consideration the size of the façade, frontage and space itself, he felt that the request was fair, reasonable and met the criteria. He asked that the Board approve their request for the signage developmental variance.

Mrs. Murovic opened the discussion to the public. Hearing no remonstrance, she brought the discussion back to the Board.

Mr. Martini stated he did not have a problem with the Ralmondo's request, considering the size of the facility, then asked the width of the building. Mr. Ralmondo replied that it was 116 lineal feet. Mr. Mika clarified that the architectural drawings showed the width at 128 lineal feet. He continued that they would technically be allowed up to 128 lineal feet for the sign. Mrs. Murovic added that the requested option for their signage was 259 square feet, approximately the size of a billboard. She added that she appreciated the fact that the building had a 17,000 square foot interior, but that the public view was only 128 lineal feet.

Mr. Grzyski commented that a sign on the street was still an option and could be discussed with the landlord or building owner. He went on that he felt that would give the petitioners more visibility and should not be counted out. He continued that the requested 259 square foot sign they were requesting was so far over the ordinance, he felt it was too much to ask for and that they could possibly make an adjustment to their request.

Mr. Ralmondo replied that one of the reasons the sign was so large was that they could only build the channel letters in 6 inch increments. He stated they could go smaller, but they were trying to come up with options of 1-1/2 times the ordinance, then 2 times the ordinance. The closest they could get to the option being 2 times the ordinance was the 259 square foot result. He went on to say that they felt the proportionality in the 259 square foot sign looked quite good, even though it was significantly larger than the ordinance allowance.

Mrs. Murovic asked if the Ralmondo's were doing any improvements to the façade on the outside of the building or any improvements to the parking lot. Mr. Ralmondo replied that they had negotiated with the landlord that they would paint the exterior façade and may also be doing some window work as well. Mrs. Murovic asked if there would be any major upgrade to the façade and Mr. Ralmondo replied there would not be major upgrades.

Mr. Martini pointed out that the parking lot going into the area was in bad shape and full of potholes. Mr. Ralmondo stated that the parking lot condition had come up in the lease negotiations. He went on to say the entrance drive responsibility was actually split between two parties. The east side was the responsibility of the Dollar General and the west side was the responsibility of the landlord of Highland Plaza.

Mrs. Murovic added that the building location was good and that there was nothing really blocking the visibility from the street. Mr. Ralmondo agreed and stated he felt signage was vital and important, then added that the laws regarding signage in Highland were the most restrictive of the towns they had built in.

Mr. Martini commented that they had proposed three options of “A”, “B” and “C”, option C being the largest. He then asked if that had been the option used in Schererville. Mr. Ralmondo stated that the sign in Schererville had to go through the variance process also, but that it was significantly larger than the sign they were requesting in Highland.

Mr. Martini motioned that the Board grant the variance request for option “B”, or 184 square feet. Mr. Grzymski seconded the motion. The motion was denied with a roll call vote of 2 – 1. Mr. Martini added that the size of the facility was roughly 1/3 the size of a football field and that it was a very good size. Mrs. Murovic asked if the Ralmondo’s would consider an increase of 25% of the ordinance allowance. Mr. Weiser explained that was not an option due to the channel letters being in 6 inch increments and that was why they had come up with the presented options. He added there was no middle ground between the options.

Attorney Reed explained that a motion to continue would be appropriate because a motion to approve that doesn’t pass is not a denial and that nothing had been denied at this point. He added that the petitioners had the right to a full Board and given the tenure of the last motion, he felt that a motion to deny would not pass either at this point, even with a full Board present. He continued that there was no action right now and if the Board doesn’t do something, they would automatically get the variance.

Mr. Grzymski motioned to continue the Ralmondo’s sign variance request for the Planet Fitness on 45<sup>th</sup> Street until the February 26, 2020 BZA meeting. Mr. Martini seconded and it unanimously passed with a roll call vote of 3 – 0.

**BUSINESS FROM THE FLOOR: None**

**ADJOURNMENT: Motion: Mr. Grzymski Second: Mr. Martini Time: 7:28 p.m.**